

December 15, 2003  
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Filed: November 22, 2000  
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**REMARKS/DISCUSSION OF ISSUES**

Specification. The Applicant has amended the specification herein to correct errors in the specification. No new matter was introduced by the amendment of the specification herein.

Claims. In the Non-Final Office Action, Examiner Nguyen rejected pending claims 1-8 on various grounds. The Applicant responds to each rejection as subsequently recited herein, and respectfully requests reconsideration and further examination of the present application under 37 CFR § 1.112:

- A. Examiner Nguyen rejected pending claims 4-8 under 35 U.S.C. §112, ¶2.

The Applicant has cancelled pending claims 4-8 without prejudice or disclaimer to the subject matter of pending claims 1-8. Withdrawal of the rejection of claims 4-8 under 35 U.S.C. §112, ¶2 is therefore respectfully requested.

- B. Examiner Nguyen rejected pending claims 1-8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,146,498 to *Smith*.

The Applicant has thoroughly considered Examiner Nguyen's remarks concerning the patentability of pending claims 1-8 over *Smith*. The Applicant has also thoroughly read *Smith*. To warrant this anticipation rejection of claims 1-8, *Smith* must show each and every limitation of independent claim 1 in as complete detail as is contained in independent claim 1. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 1-8, because *Smith* fails to disclose, teach or suggest "in that the terminal is provided for transmitting to the radio network controller a message coded with a new cipher key as an acknowledgement of the new cipher key" as recited in independent claim 1.

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Specifically, as illustrated in FIG. 1, *Smith* discloses a cipher key change procedure for a subscriber unit 10. Upon receiving a key change command (2), subscriber unit 10 decodes the key change command (24) to thereby generate a new key as a function of a base or old key (26) whereby subscriber unit 10 acknowledges a completion of the generation of the new key to a central controller 20 (28). A proper review of *Smith* reveals that *Smith* fails to teach or suggest a specific coding of the acknowledgement by the subscriber unit 10, particularly a coding of the acknowledgment with the new key. See, *Smith* at column 3, lines 34-57. This is further evidenced by the *failure* of *Smith* to teach a specific decoding of the acknowledgement by the central controller 20, particularly a decoding of the acknowledgement with the new key. See, *Smith* at column 3, line 58 to column 4, line 9.

While the Applicant respectfully traverses this 35 U.S.C. §102(b) rejection of claims 1-8 as shown above, the Applicant has cancelled claims 1-8 herein without prejudice and disclaimer to the subject matter of claims 1-8 herein, and added new claims 9- encompassing the subject matter of cancelled claims 1-8. The Applicant respectfully asserts that *Smith* and the remaining art of record, alone or in combination, fail to disclose, teach or suggest the "the second message being coded with a new cipher key as an acknowledgement of the cipher key change by said terminal" as recited in independent claims 9, 17 and 25.

Withdrawal of the rejection of pending claims 1-8 under §102(b) as being anticipated by *Smith*, and an allowance of new claims 9-28 are therefore respectfully requested.

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**SUMMARY**

Examiner Nguyen's rejections of pending claims 1-8 have been obviated by the cancellation herein of claims 1-8. The Applicant has supported an allowance of new claims 9-28 over the art of record. The Applicant respectfully submits that claims 9-28 as added herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Nguyen is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: December 15, 2003

Respectfully submitted,  
CHRISTOPH HERMANN, *et al*

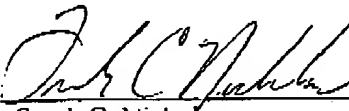
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